

1 JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

2 BRIAN J. STRETCH (CSBN 163973)
3 Chief, Criminal Division

4 STEPHANIE M. HINDS (CSBN 154284)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, CA 94102
7 Telephone: (415) 436-6816
Facsimile: (415) 436-6748
8 email: stephanie.hinds@usdoj.gov

9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 REAL PROPERTY AND IMPROVEMENTS
AT 1220 KENILWORTH ROAD,
HILLSBOROUGH, CALIFORNIA

17 Defendant.
18

No. C 06-4866 JSW

AMENDED SETTLEMENT
STIPULATION AND ~~PROPOSED~~
ORDER OF FORFEITURE

19 STIPULATION

20 Plaintiff, United States of America, and Claimants Johnson Mai and Lisa Lee and Third Party
21 Claimant Bank of America, N.A. ("Bank of America") in full settlement of all issues directly and
22 indirectly related to the seizure, detention and/or forfeiture of the following property (collectively
23 hereinafter referred to as "subject property"):

- 24 a. real property and improvements located at 1220 Kenilworth Road, Hillsborough, CA;
25 b. 2005 Porsche Sports Utility, VIN WP1AC29P15LA91971
26 c. Approximately \$46,000 in cash and foreign currency
27 d. \$83,600 in Miscellaneous Jewelry
28 e. 2002 Mercedes Benz, VIN WDBNG75J42A239719

COPIES MAILED TO SUBMITTING COUNSEL

FILED

JUN 20 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

1 hereby stipulate and agree as follows:

2 (1) On or about July 27, 2006, the United States Attorney for the Northern District of California
3 filed a criminal complaint charging Johnson Mai, Lisa Lee and others with conspiracy to import and
4 distribute controlled substances, in violation of Title 21, United States Code, Sections 952 and 846 and
5 money laundering, in violation of Title 18, United States Code, Section 1956.

6 (2) During the course of the criminal investigation, law enforcement agents seized the above-listed
7 personal property as property subject to forfeiture on the grounds that there was probable cause to
8 believe that said property was derived from and traceable to drug proceeds and thus forfeitable under
9 Title 21, United States Code, Sections 881(a)(6) and 853, or involved in and traceable to money
10 laundering offenses, and thus forfeitable under Title 18, United States Code, Sections 981(a)(1) and
11 982(a)(1).

12 (3) On August 11, 2006, the United States filed a civil complaint seeking forfeiture of the defendant
13 real property located at 1220 Kenilworth Road, Hillsborough, California, on the grounds that there was
14 probable cause to believe that said property was derived from and traceable to drug proceeds and thus
15 forfeitable under Title 21, United States Code, Sections 881(a)(6) and 853, or involved in and traceable
16 to money laundering offenses, and thus forfeitable under Title 18, United States Code, Sections 981(a)(1)
17 and 982(a)(1).

18 (4) Claimants Johnson Mai and Lisa Lee assert an ownership interest in the captioned real property
19 located at real property at 1220 Kenilworth Road, Hillsborough, California, and the following personal
20 property: 2005 Porsche Sports Utility, VIN WP1AC29P15LA91971, \$46,000 in cash and foreign
21 currency, 2002 Mercedes Benz, VIN WDBNG75J42A239719 and \$83,600 in Miscellaneous Jewelry
22 (items b-e).

23 (5) With respect to said real and personal property identified as items a-c, claimants Johnson Mai
24 and Lisa Lee consent to the forfeiture of said assets to the United States without further notice to them.
25 Claimants Johnson Mai and Lisa Lee agree that sufficient evidence exists for the forfeiture items a-c as
26 these properties were derived from and traceable to drug proceeds and thus forfeitable under Title 21,
27 United States Code, Sections 881(a)(6) and 853, or involved in and traceable to money laundering

1 offenses, and thus forfeitable under Title 18, United States Code, Sections 981(a)(1) and 982(a)(1).

2 (6) The United States agrees to return the \$86,000 in Miscellaneous Jewelry and the 2002 Mercedes
3 Benz (items d-e) to claimants Johnson Mai and Lisa Lee through their attorney, Garrick S. Lew, whose
4 business address is 600 Townsend Street, Suite 329E, San Francisco, CA 94103-4957.

5 (7) Third Party Claimant Bank of America holds a valid and enforceable lien on the captioned
6 defendant real property located at 1220 Kenilworth Road, Hillsborough, California which is evidenced
7 by the Deed of Trust (Note) recorded in the Official Records in the County of San Mateo on February 9,
8 2006 in the amount of \$650,000.

9 (8) Third Party Claimant Bank of America neither had knowledge nor had reason to believe that the
10 captioned defendant real property was derived from and traceable to drug proceeds and thus forfeitable
11 under Title 21, United States Code, Sections 881(a)(6) and 853, or involved in and traceable to money
12 laundering offenses, and thus forfeitable under Title 18, United States Code, Sections 981(a)(1) and
13 982(a)(1). Any violations, as alleged in the complaint for forfeiture involving the captioned defendant
14 real property, occurred without the knowledge and consent of Bank of America.

15 (9) Plaintiff hereby recognizes Bank of America's claimed interest in the defendant real property
16 located at 1220 Kenilworth Road, Hillsborough, California and agrees that following the Court's entry of
17 a final order of forfeiture and the sale of the defendant real property, Plaintiff will pay Bank of America
18 all monies due and owing under the Note as reflected in the payoff statement provided by the Bank of
19 America and its agent Cal-Western Reconveyance Corporation as follows:

- 20 i) unpaid principal in the amount of \$650,000
- 21 ii) unpaid interest until the date of payment at the daily rate of \$106.080; as of February 27,
22 2008, the amount of interest due is \$33,839.52
- 23 iii) all advanced fees and charges in the amount of \$56,203.65
- 24 iv) all costs and fees incurred for the commencement of foreclosure proceedings in the
25 amount of \$2,189.06.

26 (10) Third Party Claimant Bank of America agrees that payment to Bank of America as set forth
27 in paragraph 9 above, shall be in full settlement and satisfaction of any and all claims by Bank of America

1 to the captioned real property in this action and all claims resulting from the incidents or circumstances
 2 giving rise to this lawsuit. Upon payment to Bank of America as set forth in this agreement, Bank of
 3 America agrees to release any and all claims arising out of this action against the United States and
 4 agrees to not to pursue against the United States any other rights it may have under the Note, including
 5 the right to foreclose on the captioned defendant real property.

6 (11) The parties agree to execute further documents, to the extent necessary, to convey clear title
 7 to the property to the United States and to further implement the terms of this settlement.

8 (12) Claimants Johnson Mai and Lisa Lee shall hold harmless the United States of America, the
 9 Internal Revenue Service, the Drug Enforcement Administration, the Department of Homeland Security,
 10 Immigration and Customs Enforcement, and all agents, officers and employees thereof, including any and
 11 all state and local law enforcement officers, for any and all acts directly or indirectly related to the
 12 seizure, detention and forfeiture of the subject property.

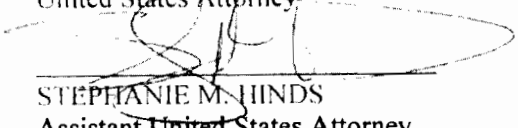
13 (13) Each party shall bear its own attorneys fees and costs.

14 (14) The terms of this settlement agreement are contingent upon the court's entry of a judgment
 15 and/or final order of forfeiture and sale of the defendant property pursuant to the judgment and/or final
 16 order of forfeiture.

17
 18 IT IS SO STIPULATED:

19
 20
 21 Dated: _____

JOSEPH P. RUSSONIELLO
 United States Attorney


 STEPHANIE M. HINDS
 Assistant United States Attorney

22
 23 Dated: _____

GARRICK S. LEW
 Counsel for Claimant Johnson Mai

24
 25
 26 Dated: _____

ALICE WONG
 Counsel for Claimant Lisa Lee

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 2 giving rise to this lawsuit. Upon payment to Bank of America as set forth in this agreement, Bank of
 3 America agrees to release any and all claims arising out of this action against the United States and
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 5 the right to foreclose on the captioned defendant real property.

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 7 to the property to the United States and to further implement the terms of this settlement.

8 (12) Claimants Johnson Mai and Lisa Lee shall hold harmless the United States of America, the
 9 Internal Revenue Service, the Drug Enforcement Administration, the Department of Homeland Security,
 10 Immigration and Customs Enforcement, and all agents, officers and employees thereof, including any and
 11 all state and local law enforcement officers, for any and all acts directly or indirectly related to the
 12 seizure, detention and forfeiture of the subject property.

13 (13) Each party shall bear its own attorneys fees and costs.

14 (14) The terms of this settlement agreement are contingent upon the court's entry of a judgment
 15 and/or final order of forfeiture and sale of the defendant property pursuant to the judgment and/or final
 16 order of forfeiture.

17
 18 IT IS SO STIPULATED:

19 JOSEPH P. RUSSONIELLO
 20 United States Attorney

21 Dated: _____

22 STEPHANIE M. HINDS
 23 Assistant United States Attorney

24 Dated: May 23, 2008

25 
 26 GARRICK S. LEW
 27 Counsel for Claimant Johnson Mai

28 Dated: _____

ALICE WONG
 Counsel for Claimant Lisa Lee

1

2 Dated: 3-3-08

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4 Dated: _____

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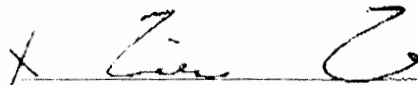
28 SETTLEMENT STIPULATION AND
PROPOSED ORDER OF FORFEITURE
No. C 06-4866 JSW

GARRICK S. LEW
Counsel for Claimant Johnson Mai


ALICE WONG
Counsel for Claimant Lisa Lee

[INSERT NAME OF BANK COUNSEL]
Counsel for Bank of America

JOHNSON MAI, Claimant


LISA LEE, Claimant

RHONDA WESTON,
Bank of America
Vice President, Foreclosure



1 Dated: _____

2 [INSERT NAME OF BANK COUNSEL]
3 Counsel for Bank of America

4 Dated: 06-13-2008

Johnson Mai

JOHNSON MAI, Claimant

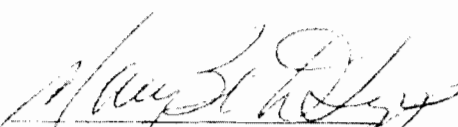
6 Dated: _____

7 LISA LEE, Claimant

8 Dated: _____

9 RHONDA WESTON,
10 Bank of America
11 Vice President ,Foreclosure

1 Dated: 6/16/08


[INSERT NAME OF BANK COUNSEL]
Counsel for Bank of America

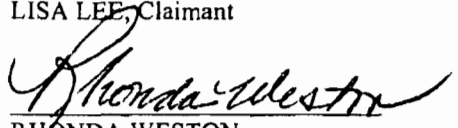
4 Dated: _____

JOHNSON MAI, Claimant

6 Dated: _____

LISA LEE, Claimant

8 Dated: 6/16/08


RHONDA WESTON,
Bank of America
Vice President, Foreclosure

[PROPOSED] FINAL ORDER OF FORFEITURE

Based upon the above stipulation, all pleadings filed herein, the Court finds that there is sufficient evidence to support the seizure and forfeiture of the following real and personal property (hereafter "subject property") as property was derived from and traceable to drug proceeds and thus forfeitable under Title 21, United States Code, Sections 881(a)(6) and 853, or involved in and traceable to money laundering offenses, and thus forfeitable under Title 18, United States Code, Sections 981(a)(1) and 982(a)(1):

- a. real property and improvements located at 1220 Kenilworth Road, Hillsborough, CA;
- b. 2005 Porsche Sports Utility, VIN WP1AC29P15LA91971
- c. Approximately \$46,000 in cash and foreign currency
- d. \$83,600 in Miscellaneous Jewelry
- e. 2002 Mercedes Benz, VIN WDBNG75J42A239719

Accordingly, IT IS HEREBY ORDERED that the defendant real property located at 1220 Kenilworth Road, Hillsborough, California and defendants 2005 Porsche Sports Utility and \$46,000 cash and foreign currency (items a-c) of the subject property shall be and hereby is forfeited to the United States pursuant to Title 21, United States Code, Section 881(a)(6) and Title 18, United States Code, Section 981(a)(1);

IT IS FURTHER ORDERED that the \$86,000 in Miscellaneous Jewelry and 2002 Mercedes Benz (items d and e) shall be returned to Claimants Johnson Mai and Lisa Lee, by and through their attorney, Garrick S. Lew, whose business address is 600 Townsend Street, Suite 329E, San Francisco, CA 94103-4957.

IT IS FURTHER ORDERED that after the Court's entry of this order of forfeiture and upon the sale of the defendant real property, Plaintiff will pay Bank of America the following:

- i) unpaid principal in the amount of \$650,000
- ii) unpaid interest until the date of payment at the daily rate of \$106.080; as of February 27, 2008, the amount of interest due is \$33,839.52

- 1 iii) all advanced fees and charges in the amount of \$56,203.65
2 iv) all costs and fees incurred for the commencement of foreclosure proceedings in
3 the amount of \$2,189.06.

4 IT IS FURTHER ORDERED that such payment to Bank of America as set forth above shall be
5 in full settlement and satisfaction of any and all claims by Bank of America to the captioned defendant
6 real property and all claims resulting from the incidents or circumstances giving rise to this lawsuit;

7 IT IS FURTHER ORDERED that upon payment to Bank of America as set forth above, Bank of
8 America agrees to release any and all claims arising out of this action against the United States and
9 agrees to not to pursue against the United States any other rights it may have under the Note, including
10 the right to foreclose on the captioned defendant real property.


11 IT IS FURTHER ORDERED that Claimants Johnson Mai and Lisa Lee shall hold harmless the
12 United States of America, the Drug Enforcement Administration, the Department of Homeland Security,
13 Immigration and Customs Enforcement, and all agents, officers and employees thereof, including any and
14 all state and local law enforcement officers, for any and all acts directly or indirectly related to the
15 seizure, detention and forfeiture of the subject property;

16 IT IS FURTHER ORDERED that the parties shall execute further documents, to the extent
17 necessary, to convey clear title to the captioned defendant real property to the United States and to
18 further implement the terms of this agreement.

19 IT IS FURTHER ORDERED that all right, title and interest in the property ordered forfeited is
20 hereby vested in the United States of America. The United States shall dispose of the forfeited property
21 according to law.

22
23 IT IS SO ORDERED.

24
25 DATED: **JUN 20 2008**


JEFFREY S. WHITE
United States District Judge